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## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, January 30, 2001, at 2 p.m.

## Senate

WEDNESDAY, JANUARY 24, 2001

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Omnipotent God, who hung the stars in their place, put planets in their orbits, and created humankind on this planet in this universe among universes, You are our Creator, Redeemer, and Lord. Everything within us rallies to express our praise. You have created us to love You, and when love for You is the motive of all we do, all of life is worshiped. Today we want our work to be our way of telling You how much we love You. What a privilege You have given us to serve You out of love in this Senate of this Nation You love and have blessed so bountifully!

Therefore, we commit this day to glorify You so that even mundane duties will serve as a magnificent praise to You. Help us to love and care for the people with whom we work as if in them we meet You dressed in the manifold variety of human personalities. May our constant goal be to do our work with excellence as devotion to You. "Oh Yahweh, our Adonai, how excellent is Your name in all the earth. For You have created us a little lower than Elohim, Yourself, and crowned us with glory and honor to assume dominion over the works of Your hands."—Psalm 8: 1, 5-6. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JOHN ENSIGN, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

### SCHEDULE

Mr. ENSIGN. Mr. President, today the Senate will be in a period for morning business until 11 a.m. with Senators DURBIN, MURKOWSKI, and COLLINS in control of the time. At 11 a.m., the Senate will resume consideration of Governor Thompson's nomination to be Secretary of HHS. There will be up to 30 minutes of debate on the nomination with a vote scheduled to occur at 11:30 a.m. Additional nominations are scheduled for hearings during today's session, and it is hoped that we can expedite those nominations for full Senate action as early as this afternoon. I thank my colleagues for their attention.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there now will be a period for the transaction of morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak for up to 10 minutes each. Under the previous order, the time between 10:30 a.m. and 10:50 a.m. shall be under the control of the Senator from Alaska.

The Senator from Alaska is recognized.

### NOMINATION OF GALE NORTON

Mr. MURKOWSKI. Mr. President, for the benefit of all Members, I want to advise them that the Committee on Energy and Natural Resources just concluded reporting out favorably the nomination of Gale Norton as the President's nominee for Secretary of the Interior. The committee vote was 18-2. I don't think there is any question that the nominee, in effect, received a mandate from our committee.

It is interesting to note the thoroughness under which the Energy and Natural Resources Committee conducted 2 days of hearings. I particularly thank Senator BINGAMAN, who

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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chaired the committee during the time under which control of the Senate was under the other party, and all those on both sides who worked to expedite the material necessary to determine the inquiries that came in.

There were 224 questions submitted to the nominee for response. All those questions were answered over a matter of a day and a half. Looking at many of the written questions, I did note that she had answered in the open hearing most of the questions. In any event, it is interesting that in the case of the former Secretary of the Interior, Bruce Babbitt, the committee reported him out the same day after concluding its hearings. All the questions, of course, were not in on that particular occasion. I point this out for the benefit of those who are students of history and procedure in the Senate.

I join with all our colleagues in congratulating the nominee, Gale Norton. She will be a fine Secretary of the Interior. She is extraordinarily qualified in public lands and will bring back a balance to the assessment of science and technology, as we look to the development of resources on our public lands.

#### ENERGY CRISIS IN CALIFORNIA

Mr. MURKOWSKI. I rise today to address the situation in California. I want to make sure there is no misunderstanding. We all have a very legitimate concern for the plight of California from the standpoint of the energy crisis that is underway.

Yesterday the Secretary of Energy extended the order which requires that outside providers of power provide power to the State of California for a period of about 2 weeks. This has serious consequences because there may be some in California who see this as relief, which it is, and believe that relief can continue without any significant correction internally within California.

I do not want to mislead anybody because I am convinced that the administration, in issuing this order of 2 weeks, stands firm in its statement that it will not extend that beyond 2 weeks, which means California is going to have to address a procedure to ensure that payment is made for electricity coming into that State.

I am concerned that the Federal Government has assumed a contingent liability by this order because it has ordered the generators to move that power into California. It did not address how it was going to be paid for. So if the State of California can't pay for it, then there is potentially a cost to the Federal Government. By taking this step, the Government may well have picked up a liability, perhaps a contingent liability. Nevertheless, it is a reality.

This morning at the Energy and Natural Resources Committee business meeting, after discussion with Senator BINGAMAN and other members, we agreed we would hold a hearing next week on the California situation. It

would bring in the surrounding States—Oregon, Washington, Idaho, perhaps Arizona and Nevada—that are kind of interconnected and affected.

We will talk about the Bonneville Power Administration and its role. We will talk about Seattle City Light. And we will talk about short-term and long-term contracts.

We are going to talk about take-or-pay contracts. We are going to talk about the reservoirs at Bonneville's hydroelectric dams are at an all-time low, and prospects for adequate power in the Northwest this summer when there is a heavy load for air conditioning. We are going to talk about the situation of aluminum companies that are now reselling their Bonneville power. We will talk about a situation that came about as a consequence of the Forest Service's inability to provide sales to some of the companies that were generating power from biomass that suddenly find they have no biomass, so the powerplants are shut down.

It is a grave responsibility, and it has come out of a policy of ignorance. When I say ignorance, I don't mean to belittle those who are responsible for the direction of California's energy, but ignorance in the sense that you cannot continue a growing economy, such as California has had—it is equivalent to the sixth largest economy in the world—where you have increased demands for power without increasing generation.

So California consumers face unprecedented problems, zooming electric rates, power shortages. We have two major investor owned utilities on the brink of bankruptcy. Some have suggested they have been guilty of having price structures that are unrealistic. On the other hand, it is hard to believe that they would drive themselves into bankruptcy. I am sure that the Governor of California, Governor Davis, wants cheap rates in California. The question is, are some of those rates going to be underwritten by taxpayers in other parts of the country? Again, we have to help California, but California has to help itself.

Now, in my view, the activities so far in California to correct this have been kind of like shifting the deck chairs around on the *Titanic*—perhaps for a better view or a more comfortable position. But if they don't take real corrective action, the ship is going to sink. The question is, what is it going to take with them? The stockholders and bondholders in Pacific Gas and Electric and Southern California Edison—various teacher unions, and people throughout California who have invested in what previously were the highest rated utilities in the country—suddenly find themselves questioning whether those investments are going to be made good. For all practical purposes, one corrective action may be, if indeed the utilities go into bankruptcy, is that a Federal bankruptcy judge will dictate the price that California con-

sumers are going to have to pay. Now, that is hard ball, but that is not too far away from happening. In my own opinion, to a large degree California's problems are self-created. They started out with a program that they called deregulation, but really wasn't. It is kind of interesting to reflect on that because they called it the California competition program—a competition enacted by the State legislature in 1996, and the implementation of that law really came into effect January 1, 1998. What they did, they made a mandatory program for California's investor owned utilities, Pacific Gas & Electric, Southern California Edison and San Diego Gas and Electric. Two-thirds of California consumers are served by these three utilities.

But the interesting thing is that California made it voluntary for its publicly owned utilities to join the State's competition program—but none of them joined. So the law and the wisdom of the California legislature said it is voluntary for the publicly owned utilities, but mandatory for the investor owned utilities.

I am not here to discuss the issue of equity. But the essence of California's competition program was to create a vigorous deregulated wholesale power market. And once there was a vigorous wholesale power market, it would create a deregulated retail power market. That sounds good, but the problem is that it never happened on the retail side.

The key elements of the California program were, a rate freeze on the retail price of electricity to consumers until the year 2002, or until the stranded costs were paid off. Those are costs associated with, say, a nuclear plant that shut down, never paid for, and you have to pay for it in the rate structure.

Now, the Federal Energy Regulatory Commission has the authority to regulate wholesale rates. They have seen fit not to put a hard cap on wholesale rates. They say it will harm competition. It is kind of interesting to note that we have seen a bill introduced that would give the authority of FERC to put caps on wholesale rates to the Secretary of Energy. My first reaction to that is you are taking the problem from an objective group that has some expertise in this area and moving it into the political spectrum. I don't know what you really accomplish on that. My first inclination is that that is not a solution to the problem. That is simply transferring the problem into the political realm.

Now, it is kind of interesting because under the California competition program investor owned utilities are required to purchase from the wholesale spot market all of the electricity they sell at retail to consumers. No long-term contracts. The investor owned utilities were not allowed to enter into electricity contracts to hedge on electric prices. The investor owned utilities were directed to divest their fossil fuel fired powered plants, but allowed